

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

January 3, 2014

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

LUIS REYNOSO-RODRIGUEZ, a/k/a
Nephew, a/k/a Francisco Rodriquez-
Hernandez,

Defendant - Appellant.

No. 13-1442
(D.C. No. 1:12-CR-00038-CMA-7)

ORDER

Before **HOLMES, O'BRIEN**, and **BACHARACH**, Circuit Judges.

This matter is before the court on the government's motion to dismiss this appeal because the notice of appeal is untimely. Upon consideration thereof, the motion is granted.

Judgment was entered on June 24, 2013, and the notice of appeal was filed four months later on October 24, 2013.

In a criminal appeal, the defendant's notice of appeal is to be filed within 14 days of entry of judgment. *See* Fed. R. App. P. 4(b)(1)(A). This rule is an "inflexible claim-processing rule[], which unlike a jurisdictional rule, may be forfeited if not properly raised by the government." *United States v. Garduno*, 506 F.3d 1287, 1291 (10th Cir. 2007) (internal quotation omitted).

However, “[b]ecause the government timely objected to [the defendant’s] late notice of appeal, this court is bound to dismiss the appeal.” *Id.* at 1292.

The defendant did not file a response to the government’s motion although he was ordered to do so by this court.

The government’s motion to dismiss is **GRANTED. APPEAL DISMISSED.**

Entered for the Court
ELISABETH A. SHUMAKER, Clerk

A handwritten signature in cursive script, appearing to read "Ellen Rich Reiter".

by: Ellen Rich Reiter
Jurisdictional Attorney